

### **REMARKS**

In the outstanding Office Action identified above, the Examiner objected to the claim 30; rejected claims 16-18 under 35 U.S.C. §101; and provisionally rejected claims 1-30 under the judicially created doctrine of obviousness-type double patenting.

Applicant has amended claims 1, 4-8, 10, 13-19, 22-24, 27, and 30 to more appropriately define the invention. Claims 1-30 remain pending. Based on the following reasoning, Applicant respectfully traverses the Examiner's objection and rejections.<sup>1</sup>

#### **I. Objection to Claim 30**

Regarding the objection to claim 30, Applicant has amended the claim to correct informalities as suggested by the Examiner. Accordingly, Applicant requests the Examiner to withdraw the objection to claim 30.

#### **II. Rejection to Claim 16-18 Under 35 U.S.C. § 101**

Regarding the rejection to claims 16-18 under 35 U.S.C. § 101, Applicant has amended the claims as suggested by the Examiner. Accordingly, Applicant requests the Examiner to withdraw the rejection to claims 16-18 under 35 U.S.C. § 101.

#### **III. Double Patenting Rejections**

The Examiner provisionally rejected claims 1-30 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending Application No. 10/105,387. One of the characteristic features of independent claims 1,

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<sup>1</sup> As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to certain assertions or requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

6, 7, 13-19, 24, and 27, as amended, is that the plurality of patterns include a measurement target pattern and a standard pattern, the standard pattern being an evaluation standard of the measurement target pattern. Further, one of the characteristic features of independent claim 8, as amended, is that the plurality of patterns include a measurement target pattern of a target of measurement and the pattern measurement method comprises selecting and setting a standard pattern constituting an evaluation standard of the measurement target pattern from the plurality of patterns. Application No. 10/105,387 is silent as to a standard pattern. As such, Applicant submits that independent claims 1, 6, 7, 8, 13-19, 24, and 27 are patently distinct from claims 1-46 of Application No. 10/105, 387. Accordingly, Applicant requests the Examiner to withdraw the double patenting rejections.

#### **IV. Conclusion**


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: February 16, 2006

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